

SECOND SUPPLEMENT TO WRITTEN TESTIMONY
OF THE WESTERN KANSAS GROUNDWATER MANAGEMENT DISTRICT #1:
ANSWERS TO QUESTIONS PRESENTED BY THE PUBLIC EITHER AT OR IN ADVANCE
OF THE SECOND LEMA HEARING

To Hearing Officer Earl D. Lewis, Jr., Division of Water Resources,
Kansas Department of Agriculture.

Submitted by: Kyle Spencer, Manager

In addition to comments provided separately to the four questions asked by the hearing officer, GMD 1 offers the following additional testimony in response to other oral and/or written testimony presented by the public either at or in advance of the Second LEMA Hearing:

Question #5: Why did the District do allocations based on reductions of historic use rather than inches?

The Board discussed the basis of allocations for the Wichita County LEMA extensively, including the potential use of allocations based inches rather than reductions from historic use. In the end, the Board choose the current plan for reasons below:

First, the District was encouraged to follow the Wichita County WCA allocation provisions as closely as possible. The LEMA plan has lesser reductions than the WCA but also less flexibilities. By using the same basis of allocations as the WCA, it provides producers with a cleaner comparison between the WCA and LEMA provisions for their decision making.

Second, the degree of depletion in Wichita County urgently requires concrete water savings, which is best achieved with allocations based on reductions from historic use, complimented with the carefully crafted appeal process in the Plan.

Question #6: Why did the District not do a District-wide LEMA at this time?

This issue was discussed extensively by the Board. In the end, the Board decided to move forward with Wichita County first as: 1) its need is most urgent since it has the least remaining saturated thickness, 2) its waterusers specifically requested the Board take action urgently, and 3) due to the extensive work with the public that has already occurred.

In addition, the Board has heard from many waterusers in other counties a preference for allocations based on inches per acre. Past attempts at implementing a District-wide LEMA have failed due to similar concerns in these counties. Rather than delay implementation of Wichita County LEMA to seek to work out these differences, the Board choose to move forward with Wichita County first. And this makes sense: the users under this Potential LEMA are overwhelmingly in favor of it, and have sought its implementation, due to the critical levels of the High Plains Aquifer in their region--and delaying implementation due to minor issues raised by less-impacted areas would result in this critical problem remaining unaddressed.

With the Wichita County LEMA work nearly complete, the GMD 1 Board has begun active consideration of options for LEMAs in other counties.

Question #7: With regard to the Smith Farm testimony and concerns, GMD 1 would offer the following:

The WCA law specifically states that where a LEMA's allocation is more restrictive, its allocation applies in all WCAs of the area. Therefore, exempting a WCA that is less restrictive would be in violation of the WCA statute. We would note that the flexibilities allowed under WCA's of the county, will remain, they will simply have to comply with the stricter allocation. Any user can appeal its allocation if it believes the data supports a higher allocation.

With regard to the contention that users will not know how much they can pump next year until halfway through the irrigation season: 1) respectfully, any user should have knowledge of their pumping rates and should have a good idea of what an appeal might produce, 2) the allocation spreadsheet provides an estimated rate needed to exceed the historical use record, and 3) the LEMA provides for 5-year allocations. Thus, if needed, any user can adjust over the remaining years of the LEMA period.

Respectfully Submitted,

/s/ Kyle Spencer
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